

STORAGE NAME: h0485s1a.ca

DATE: April 19, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: CS/HB 485

RELATING TO: Bradford County/Fuel Taxes

SPONSOR(S): Committee on Transportation and Representative Crady

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 11 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 10 NAYS 0
- (3) FINANCE & TAXATION
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

This local bill authorizes Bradford County to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years through 1996-1997. This bill provides retroactive legislative approval of any past uses of fuel tax revenues by the county. The bill requires that fuel tax revenues used for unauthorized purposes be repaid by the county no later than December 31, 2025. Repayment must be made from revenue sources other than fuel taxes, and funds repaid are to be used by the county for transportation purposes. According to the Bradford County Clerk's Office, \$975,500 of fuel tax revenues have been used to fund court-related expenditures.

As discussed in the "Comments" section of the analysis, CS/HB 485 appears to address issues not included in the published notice.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Constitutional Fuel Tax

Legal Authority: Art. XII, s. 9(c), Florida Constitution; ss. 206.41(1)(a), 206.47, 336.023, and 336.024, F.S. The Florida Constitution provides for the levy of a 2 cents per gallon tax on motor fuel. In its current form, the tax is a revenue source for counties to meet their transportation needs.

Current law requires that the proceeds credited to each county must first be used to meet the debt service requirements, if any, of the debt assumed or refunded by the State Board of Administration payable from the tax. The remaining fuel tax funds are distributed to each county. The funds can only be used for the acquisition, construction, and maintenance of roads. Maintenance means periodic and routine maintenance, as defined in s. 334.03, F.S., and may include the construction and installation of traffic signals, sidewalks, bicycle paths, and landscaping. The funds may be used as matching funds for any federal, state, or private grant specifically related to these purposes.

Bradford County received revenues of \$438,000 in fiscal year 1997-98 from this tax.

Local Option Fuel Taxes

Legal Authority: ss. 206.41(1)(d) and (e), 206.87(1)(b) and (c), 336.021, and 336.025, F.S.

Counties are authorized to levy up to 12 cents of local option fuel taxes in the form of three separate levies. This tax was first authorized in 1972.

The first is a tax of 1 to 6 cents on every net gallon of fuel sold within a county. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

The second tax is a 1 to 5 cents levy upon every net gallon of gasoline sold within a county. Diesel fuel is not subject to this tax. This additional tax may be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body or by voter approval in a county-wide referendum. Proceeds received from this additional tax may be

used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan.

The third is a tax of 1 cent on every net gallon of fuel sold within a county. This tax is referred to as the Ninth-Cent Fuel Tax. The tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Bradford County received revenues of \$903,000 in fiscal year 1997-98 from these taxes.

Bradford County Financial Statement

The Financial Statement and Independent Auditor's Reports for the Bradford County Board of County Commissioners dated September 30, 1998 is on file with the Department of Banking and Finance. The balance sheet for Special Revenue Funds shows that \$975,500 from the Transportation Trust Fund was "advanced" to the Fines and Forfeitures Fund. Such an advance is not a use of fuel tax revenues authorized by law. Note 14 of the Financial Statements indicate that the Board of County Commissioners adopted a resolution acknowledging the debt to the Transportation Trust Fund, and resolving to repay \$50,000 in fiscal year 1998-1999 and \$50,000 in fiscal year 1999-2000. In addition, the Board of County Commissioners resolved that beginning in fiscal year 2000-2001, the county would repay \$87,500 each year until the Transportation Trust Fund is repaid in full.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes Bradford County to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through 1996-1997. Fuel tax revenues from these taxes have been distributed to the counties since the mid-1970's. This bill provides retroactive legislative approval of any past uses of these funds by the county.

The bill requires that fuel tax revenues used for unauthorized purposes be repaid by the county no later than December 31, 2025. Repayment must be made from revenue sources other than fuel taxes, and the funds repaid are to be used by the county for transportation purposes.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? September 23, 1999

WHERE? Bradford County Telegraph, Starke, Bradford County, Florida

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B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Section 10, Art. III of the State Constitution, provides:

Special laws.—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

Section 11.02, F.S., implements the constitutional notice requirement. By law, a notice advertising intent to seek enactment of local legislation and stating the substance of the contemplated law must be published one time, at least 30 days prior to the bill's introduction into the Legislature. Sections 11.021 and 11.03, F.S., require submission of evidence that notice has been properly published before a local bill not subject to a referendum can be introduced in the House or Senate.

The Florida Supreme Court, in State ex. rel. Landis v. Reardon, 154 So. 868 (Fla. 1934), explained that the purpose of the notice of intention to apply for a local or special bill was to secure, for those directly interested, due notice of the substance of a proposed law. It states, in part:

The primary purpose of the constitutional notice requirement . . . is to apprise persons directly interested in the matter or thing to be affected of the nature and substance of the bill, so that such enactments or the essential substance thereof, may be contested, if that is desired.

Similarly, in State ex. rel. Watson v. City of Miami, 15 So. 2d 481,483 (Fla. 1943), the Florida Supreme Court said:

The function of . . . the notice of intention to seek enactment . . . is to provide reasonable notice to a person whose interests may be directly affected by the proposed legislation, so that he may inquire further into the details thereof and, if he so desires, seek to prevent its enactment or to persuade the legislature to change its substance.

The notice of intention to introduce legislation for HB 485 states, in part:

“You are hereby notified that the Board of County Commissioners of Bradford County has requested the 2000 Legislature to pass local or special legislation that would ratify and excuse the past expenditure of Transportation Trust Fund monies for other lawful purposes”

As originally filed, HB 485 authorized Bradford County to transfer and use legally restricted fuel taxes for unrestricted purposes for all years prior to and through 1996-1997. As discussed in the "Amendments" section of the analysis, the Committee on Transportation adopted an amendment to HB 485 and passed the bill as a committee substitute.

CS/HB 485 incorporates the provisions of HB 485 and also requires fuel tax revenues used for unauthorized purposes to be repaid by the county no later than December 31, 2025. CS/HB 485 also provides that repayment must be made from revenue sources other than fuel taxes, and requires funds repaid to be used by the county for transportation purposes. The published notice does not mention the provisions relating to the repayment of the fuel tax revenues.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Bill 485 was considered by the Committee on Transportation on April 3, 2000. The committee adopted one amendment which added provisions related to repayment of funds used for unauthorized purposes within 25 years. The bill as amended was reported favorably as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

John R. Johnston

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith